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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/657,757	09/08/2000	Anna Maria Helena Boots	0/96198US	2735

7590 12/18/2001

Mary E Gormley
Akzo Nobel Patent Department
1300 Piccard Drive
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Rockville, MD 20850

EXAMINER

NOLAN, PATRICK J

ART UNIT	PAPER NUMBER
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1644

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DATE MAILED: 12/18/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/657,757

Applicant(s)

Boots et al.

Examiner

Patrick J. Nolan

Art Unit

1644



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-5, 7, and 10-17 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claims 2-5, 7, and 10-17 are subject to restriction and/or election requirement

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) ☐ Other:

Part III DETAILED ACTION

1. Claims 2-5, 7, 10-17 are pending.

Restriction/Election

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

Groups I-XXV. Claims 2-5, 7, 10-14, and 16-17 are drawn to 25 patentably distinct 16-mer peptides (SEQ ID NOS 1-2, 5-6, 12, 16-20, 28-30, 34, 37-39, 46-48, 53-57), classified in class 530, subclass 326.

Group XXVI. Claim 15, drawn to a method of treating with nonamers, classified in class 514, subclass 15.

The inventions are distinct, each from the other because of the following reasons:

3. Groups I-XXV are unique products. They differ with respect to their physicochemical properties and are therefore patentably distinct.

Groups I-XXV and XXVI are unrelated products and methods and are therefore patentably distinct.

4. Because a search of these 26 distinct inventions would not be co-extensive with a search of the others, an examination and search of two or more inventions in a single application would constitute a serious undue burden on the examiner.

5. Applicant is notified that if Group XXVI is amended to be identical in scope to the allowed product claims in U.S. Patent No. 6,184,204, Group XXVI will be searched along with whatever Group is elected.

6. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor or at least one claim remaining in the application. Any amendment of the inventorship must be accompanied by a diligently-filed petition under 37 CFR 1.48 (b) and by the fee required under 37 CFR 1.17 (h).

Serial Number: 09/657,757

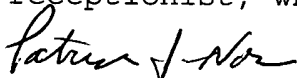
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Art Unit: 1644

8. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick Nolan whose telephone number is (703) 305-1987. The examiner can normally be reached on Tuesday through Friday from 9:00 am to 5:30 pm.

9. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Christina Chan, can be reached at (703) 305-3973. The FAX number for our group, 1644, is (703) 305-7401. Any inquiry of a general nature relating to the status of this application or proceeding should be directed to the Group receptionist, whose telephone number is (703) 308-0196.



Patrick J. Nolan, Ph.D.
Primary Examiner, Group 1640
December 16, 2001